



# OLR RESEARCH REPORT

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## **SALES TAX ON SHIPPING AND DELIVERY CHARGES**

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You asked for a legislative history of the sales tax on shipping and delivery charges, including when the current law was enacted, what the prior law was, and who proposed the change in the prior law.

### **SUMMARY**

Current law subjects retailers' charges for shipping and delivery to Connecticut's 6.35% sales tax, as long as the item being shipped is also taxable. The current law was adopted in 1993 at the request of the Department of Revenue Services (DRS). It was one of several sales tax law changes the department proposed in the 1993 session with the overall intent of "simplifying" the sales tax law.

The 1993 law applied to shipping and delivery charges incurred on or after July 1, 1993. The law in effect before that date applied the tax only to delivery charges for transporting property before it was sold. That earlier provision dated from the original passage of the sales tax law in 1947. The 1993 change was an acknowledged expansion of the sales tax, but proponents argued that the change was justified by the confusion created by the earlier law. They also stressed that the new provision would apply only prospectively.

## **CURRENT TAX ON SHIPPING OR DELIVERY CHARGES**

Under current law, for items subject to state sales tax sold on or after July 1, 1993, the taxable sale price includes “any charges by the retailer to the purchaser for shipping or delivery.” The tax applies only to shipping charges for taxable items and not to such charges for tax-exempt items.

Under the law, shipping charges are taxable regardless of whether they are separately stated on the customer’s bill and regardless of whether the retailer itself provides the shipping or it is provided by a third party. But, according to a 2000 DRS ruling, if delivery is provided by a person other than the retailer, the shipping charges are taxable only if: (1) the person making the delivery is acting as the retailer’s agent for the specific purpose of delivering the taxable property to the purchaser on the retailer’s behalf and (2) the retailer charges the purchaser for shipping. If shipping is provided under a separate contract or agreement between the delivery service and the purchaser, the charges are not taxable (CGS § [12-407](#)(8)(A)(iii) and (9)(A)(iii); DRS Ruling [2000-7](#), December 11, 2000).

## **HISTORY OF CURRENT LAW**

### ***Public Hearing and Committee Action***

The current law was enacted in 1993 as part of [PA 93-332](#). That act included several sales tax provisions as well as an authorization to sell the off-track betting (OTB) system and change the pari-mutuel tax. But the original bill ([HB 6605](#)), favorably reported by the Finance, Revenue and Bonding Committee, contained only the sales tax provisions.

The bill’s history does not show the names of any sponsor or co-sponsors, but public hearing testimony on the bill makes it clear that it was raised at DRS’ request. According to then-DRS commissioner Alan Crystal, one of the bill’s goals was to make it easier for DRS to administer the delivery tax law. Crystal testified in the committee’s public hearing that, under prior law, which included shipping and delivery charges in the taxable sales price only if the charges were imposed before to the customer’s purchase, “we have all these arguments on audit and wanted to settle the issue.”

At the February 11, 1993 public hearing, only Crystal and Joe Brennan of the Connecticut Business and Industry Association testified on the bill. In that testimony, as well as in comments by committee members, it was acknowledged that the proposed change represented both an expansion of, and an increase in, the sales tax. Brennan testified against the bill for that reason.

### ***Floor Debate and Vote***

When the bill came to the House floor on June 3, 1993, the House adopted six amendments, including the one concerning the sale of the OTB system. Representative Maddox offered an unsuccessful amendment (House "I") that would have deleted the delivery charge change. In opposing House "I," Representative Mulready, the Finance Committee co-chair said:

Actually, Mr. Speaker, on a more serious note, this is an item of great confusion for retailers in the State of Connecticut, partly because of the point of delivery of the item being sold. We met with the number of members of some of the retail chains including some of the larger retail chains, and they in fact wanted some level of certainty to what happened here.

Now obviously they would prefer the level of certainty to be that under no circumstances does the tax apply to transportation charges, but they were willing to live with this because it in fact gives them certainty, and it imposes it prospectively as of July 1 of this year so that there's no uncertainty about the past either, so we do have the, albeit lukewarm, support of the retail community in this particular bill. . . .

House "I" failed by a vote of 63-82.

The Senate passed the amended bill unanimously on the consent calendar on June 7, 1993, without discussing the delivery charge provision.

## **PRE-1993 LAW**

As mentioned above, before the sales tax law was changed in 1993, it required the taxable sale price of an item to include “the cost of transportation of the property prior to its purchase.” This language dates from the original passage of the Connecticut sales tax in 1947 and it was part of the law from 1947 to 1993.

DRS rulings show that the department interpreted the pre-1993 law to allow only “transportation charges for delivery which occurs prior to the passage of title” of the item to be included in its taxable sale price (DRS Rulings [89-257](#) and [90-39](#)). At the 1993 public hearing, DRS Commissioner Crystal, in response to a hypothetical question from Representative Gelsi about a furniture delivery, explained the problem with the prior law:

Transactions can be unbundled and what has happened in the past is that people start invoicing separately for the goods and separately for the transportation and we’re never certain when title passes and whose it is and therefore when the tax is due.

JL:ts